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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,421	03/01/2004	John Gaughan	044499-0197	4963
22428	7590	02/09/2006	EXAMINER	
FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			LEJA, RONALD W	
			ART UNIT	PAPER NUMBER
			2836	

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 10/788,421	<b>Applicant(s)</b> GAUGHAN, JOHN	
	<b>Examiner</b> Ronald W. Leja	<b>Art Unit</b> 2836	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 06 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: 1-15.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_
13. ☒ Other: See attached Interview Summary..

  
 Ronald W. Leja  
 Primary Examiner  
 Art Unit: 2836

2/4/06

Applicant's Response of 1/6/2006 has been fully considered. In fact the Examiner contacted Mr. Townsend on 1/18/2006 so as to discuss possible claim language to put the Application in condition for Allowance. Mr. Townsend indicated that the language of proposed Claim 2 of 1/6/2006 may be amended so as to delete the "diode" and that the other independent claims and their respective dependent claims would be cancelled (if permission was granted by Applicant). At this time the Examiner decided to maintain his position as found within the Final Rejection of 11/8/2005.

After further review, the Examiner holds Applicant's arguments of 1/6/2006 as non-convincing. The bulk of the arguments are drawn to the Souri et al. (6,188,556) Reference and allege that the Reference does not disclose surge suppression as required by the instant claim language. The discussion stems around the Reference utilizing PTCRs and not being responsive to "spikes in voltage/current" and thus, cannot be a surge suppression circuit. However, it is the position of the Examiner that "surges" and "surge suppression" are not limited to "spikes in voltage/current" or "transients" for that matter. Such spikes and/or transients are marked by momentary quickly-rising levels in voltage and/or current, but "surges" encompass rises in voltage and/or current without having to be momentary in nature; this encompasses overcurrent conditions for which the Reference offers protection. Therefore, Souri et al. do indeed disclose surge suppression. As far as Applicant's remarks concerning the Miller, Jr. (3,684,924) Reference, the arguments do not appear to have much merit. If the Examiner relies upon the teachings of a single diode (42) within a reference, for a particular function, he is not bound to have to incorporate the teaching combined with the teachings of every other diode taught by the Reference.

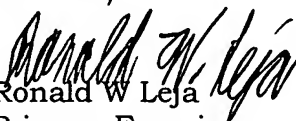
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With respect to the arguments concerning the application of the Johnson (4,576,135) Reference, Applicant appears to merely point-out that Johnson does not teach the use of a complementary Darlington pair (as if this prohibits use of any teaching from Johnson) and then argues use of zener diode (74). However, the Examiner relied upon zener diode (78) as clearly found within the Final Rejection of 11/8/2005, and as such, the arguments have no probative value.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald W. Leja whose telephone number is (571)272-2053. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus can be reached on (571)272-2800. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Ronald W Leja  
Primary Examiner  
Art Unit 2836



rwl  
February 4, 2006